

## § 870.22

## 30 CFR Ch. VII (7–1–09 Edition)

to collect full payment of all fees and interest.

(c) When a reclamation fee debt is more than 91 days overdue, a 6 percent annual penalty on the amount owed for fees will begin and will run until the date of payment. This penalty is in addition to the interest described in paragraph (a) of this section.

(d) For all delinquent fees, interest, and penalties, you must pay a processing and handling charge that we will set based upon the following components:

(1) For debts referred to a collection agency, the amount charged to us by the collection agency;

(2) For debts we processed and handled, a standard amount we set annually based upon similar charges by collection agencies for debt collection;

(3) For debts referred to the Office of the Solicitor within the U.S. Department of the Interior, but paid before litigation, the estimated average cost to prepare the case for litigation as of the time of payment;

(4) For debts referred to the Office of the Solicitor within the U.S. Department of the Interior, and litigated, the estimated cost to prepare and litigate a debt case as of the time of payment; and

(5) If not otherwise provided for, all other administrative expenses associated with collection, including, but not limited to, billing, recording payments, and follow-up actions.

(e) We will not charge prejudgment interest on any processing and handling charges.

[73 FR 67633, Nov. 14, 2008]

### § 870.22 Maintaining required production records.

(a) If you engage in or conduct a surface coal mining operation, you must maintain up-to-date records that contain at least the following information:

(1) The tons of coal you produced, bought, sold, or transferred, the amount of money you received per ton, the name of person to whom you sold or transferred the coal, and the date of each sale or transfer;

(2) The tons of coal you used and your date of your consumption;

(3) The tons of coal you stockpiled or inventoried that are not classified as

sold for fee computation purposes under § 870.12; and

(4) For in situ coal mining operations, the total Btu value of gas you produced, the Btu value of a ton of coal in a place certified at least semiannually by an independent laboratory, and the amount of money you received for gas sold, transferred, or used.

(b) We must have access to your records of any surface coal mining operation for review. Your records must be available to us at reasonable times.

(c) We may inspect and copy any of your books or records that are necessary to substantiate the accuracy of your OSM-1 Form and payments. If the fee is paid at the maximum rate, we will not copy information relative to price. We will protect all copied information as authorized or required by the Privacy Act (5 U.S.C. 552a) and the Freedom of Information Act (5 U.S.C. 552).

(d) You must maintain your books and records for 6 years from the end of the calendar quarter in which the fee was due or paid, whichever is later.

(e) If you do not maintain or make available your books and records as required in this section, we will estimate the fee due under this Part through use of average production figures based upon the nature and acreage of your coal mining operation.

(1) We will assess the fee at the amount we estimate plus an additional 20 percent to account for possible error in our fee liability estimate.

(2) After you receive our fee liability estimate, you may request that we revise that estimate based upon your information. However, you must demonstrate that our fee liability estimate is incorrect. You may do this by providing adequate documentation that we find to be acceptable and comparable to the information required in § 870.19(a).

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### § 870.23 Consequences of noncompliance.

If you do not maintain adequate records, provide us with access to records of a surface coal mining operation, or pay overdue reclamation fees, including interest on late payments or



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underpayments, we may take one or more of the following actions:

- (a) Start a legal action against you;
- (b) Report you to the Internal Revenue Service;
- (c) Report you to State agencies responsible for taxation;
- (d) Report you to credit bureaus;
- (e) Refer you to collection agencies;
- or
- (f) Take some other appropriate action against you.

[73 FR 67633, Nov. 14, 2008]

### PART 872—MONEYS AVAILABLE TO ELIGIBLE STATES AND INDIAN TRIBES

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AUTHORITY: 30 U.S.C. 1201 *et seq.*

SOURCE: 73 FR 67634, Nov. 14, 2008, unless otherwise noted.

#### § 872.1 What does this Part do?

This Part sets forth procedures and general responsibilities for managing funds received under Title IV of the Surface Mining Control and Reclamation Act of 1977, as amended.

#### § 872.5 Definitions.

As used in this Part—

*Allocate* means to identify moneys in our records at the time they are received by the Fund. The allocation process identifies moneys in the Fund by the type of funds collected, including the specific State or Indian tribal share.

*Award* means to approve our grant agreement authorizing you to draw down and expend program funds.

*Distribute* means to annually assign funds to a specific State or Indian tribe. After distribution, funds are available for award in a grant to that specific State or Indian tribe.

*Indian Abandoned Mine Reclamation Fund* or *Indian Fund* means a separate fund that an Indian tribe established to account for moneys we award under Parts 885 or 886 of this chapter or other moneys these regulations authorize to be deposited in the Indian Fund.

*Reclamation plan* or *State reclamation plan* means a plan that a State or Indian tribe submitted and that we approved under section 405 of SMCRA and Part 884 of this chapter.

*State Abandoned Mine Reclamation Fund* or *State Fund* means a separate fund that a State established to account for moneys we award under Parts 885 or 886 of this chapter or other moneys these regulations authorize to be deposited in the State Fund.

#### § 872.10 Information collection.

In accordance with 44 U.S.C. 3501 *et seq.*, the Office of Management and